

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAUL RODRIGUEZ,

Plaintiff,

v.

IDALBERTO ZALDIVAR-GALVEZ,

Defendant.

No. 1:23-cv-00192 GSA (PC

ORDER DENYING MOTION TO APPEND
AND NAME CO-DEFENDANT

(ECF No. 10)

PLAINTIFF'S FIRST AMENDED
COMPLAINT DUE **JANUARY 19, 2024**

Plaintiff, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action seeking relief under 42 U.S.C. § 1983. ECF Nos. 1, 2. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

Before this Court is Plaintiff's "motion to append and name co-defendant(s)." ECF No. 10. For the reasons stated below, the motion will be denied. Plaintiff will however be given the opportunity to file an amended complaint.

I. PLAINTIFF'S MOTION

In the instant motion, Plaintiff requests the Court permission to add "P. Figuerora" as a defendant in this action. See ECF No. 10 at 5. Plaintiff asserts that Figuerora (sp) has obstructed justice, and that he has conspired to deprive him of access to the courts, among other things. See id. at 2-6.

II. DISCUSSION

Plaintiff's motion must be denied as the information contained in it cannot simply be added to the original complaint. An amended complaint must be written or typed so that it is complete in itself without reference to any earlier filed complaint. See L.R. 220 (E.D. Cal. 2009). This is because an amended complaint supersedes any earlier filed complaint, and once an amended complaint is filed the earlier filed complaint no longer serves any function in the case. See Loux v. Rhay, 375 F.2d 55, 57 (9th Cir. 1967) ("The amended complaint supersedes the original, the latter being treated thereafter as non-existent."), overruled on other grounds by Lacey v. Maricopa Cty., 693 F.3d 896 (2012).

For this reason, Plaintiff's motion will be denied and the information contained in it will be disregarded. Instead, Plaintiff will be given the opportunity to file an amended complaint which is complete in itself.

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's "motion to append and name co-defendant(s)" (ECF No. 10) is DENIED, and
2. Plaintiff will be given the opportunity to file an amended complaint, which is complete in itself, and must be filed no later than **January 19, 2024**.

IT IS SO ORDERED.

Dated: **December 20, 2023**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE